

REMARKS

Claims 58-63 were pending in the case at the time of the Office Action. No claims are canceled and no new claims are presented.

Drawings

The Examiner's requirement for new drawings is respectfully noted. The applicant notes that the prior Office Action dated 7 March 2007 did not include the drawing requirement and the response filed by the prior attorney on 18 December 2006 stated that "corrected drawings are forthcoming."

The new drawings are filed contemporaneously with this filing.

Claim amendments

Claim 58 is amended to correct a typographical error, with "an" in line 5 being replaced with "a." The same correction is made in claim 63, line 8.

Rejection under 35 USC §102(b)

The Examiner's previous rejection of 1-32 as anticipated by US Patent 6,261,291 to Talaber ("Talaber '291") is understood to be overcome by the new claims, as it is not repeated.

Rejection under 35 USC §103(a)

The Examiner has rejected claims 58-63 as obvious over a combination of Talaber '291 with US Patent 5,261,910 to Warden and US Patent 5,954,722 to Bono. Applicant respectfully traverses.

In the response that accompanied the filing of the present RCE, the applicant tried to explain how independent claim 58 distinguishes Talaber, but it is not clear that the Examiner has carefully considered the language in claim 58.

The claimed screw retention member of claim 58 has "a tapered retention seat being formed along an intermediate portion of the passageway, the tapered retention seat comprising a shoulder formed at a bottom thereof and a wall that monotonically decreases in diameter over a height thereof." In providing a copy of Fig. 3 of Talaber '291, the Examiner appears to be referring to posterior section 25 for the required taper,

but posterior section 25 has the shoulder positioned *above* it, not at the bottom, so the posterior section 25 cannot be the tapered retention seat of the claim. Further, groove 21 in Talaber '291 has the shoulder at its bottom, but it does not comprise "a wall that monotonically decreases in diameter over a height thereof." In making the findings about Talaber '291, the Examiner does not even mention the structural feature that is required of the retention seat wall. Applicant respectfully requests further consideration of the content of Talaber '291.

The Examiner admits that Talaber '291 does not have a frustoconical split ring, and the applicant agrees with this. To find the frustoconical split ring, the Examiner cites Warden '910 at reference numbers 70 and 76. A close reading of Warden '910 indicates that reference numeral 70 has a frustoconical surface 76, but reference numeral 70 is a nut, not a split ring. Col. 4, line 38. As a nut, it is incapable of meeting the claimed requirement that "the split nature of the ring" allows "expansion of the inside and outside diameters from a relaxed state." It is therefore, incomprehensible that one of ordinary skill would expect to be able to substitute the nut 70 of Warden '910 for the true split ring 12 of Talaber '291.

The clear function of the applicant's frustoconical split ring and the seat in which it is retained is to lift the split ring in the retention seat from a position below the fastener head to a position above the fastener head. Accomplishing this requires expansion and then relaxation of the split ring, a function beyond the capability of a nut. None of the cited references show this feature. Talaber '291 shows the height of the retention seat 21 to be only slightly larger than the height of the collar 12 that is seated in it.

The Examiner cites Bono '722 for teaching fasteners that have thread portions that separate a top and bottom portion. Applicant respectfully disagrees. The thread portion of Bono '722 extends across the entire length of the "head" of screw 18. The "head" of the Bono '722 bone screw 18 is not "generally spherical," so it lacks top and bottom spherical portions that can be separated a threaded section.

From this, the applicant urges that the Examiner has not made a *prima facie* case that claim 58 is obvious over Talaber '291 and the other references. The Warden '910 nut and Bono '722 threaded screw head simply could not operate together in the claimed manner of the independent claims 58 and 63.

Independent claim 63 is a method claim based upon the device of claim 58. Therefore, to the extent that features that are lacking in Talaber '291 are not present, the use of those features, notably the expansion and subsequent relaxation of the split ring, cannot occur. Without this, there is no "taper of the retention seat acting to compress the split ring, preventing screw back out."

Conclusion

The Applicant respectfully submits that the present application is now in condition for allowance and such action is earnestly requested.

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